

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TIMOTHY DURLEY,

Plaintiff,

v.

Case No. 24-cv-257-pp

KERRY L. KUFFENKAM, *et al.*,

Defendants.

**ORDER DENYING AS MOOT PLAINTIFF'S MOTION FOR PRELIMINARY
INJUNCTION (DKT. NO. 4) AND DISMISSING CASE WITHOUT PREJUDICE
FOR FAILURE TO PAY FULL \$405 FILING FEE**

On April 9, 2024, the court issued an order denying the plaintiff's motion for leave to proceed without prepaying the filing fee because he has accumulated three strikes and the complaint did not allege that he is in imminent danger of serious physical injury. Dkt. No. 12. The court ordered that if the plaintiff wanted to proceed with this lawsuit, he must prepay the full \$405 filing fee by May 3, 2024. Id. at 7. The court advised the plaintiff that if he did not pay the filing fee by May 3, 2024, the court would dismiss the case without prejudice and without further notice. Id. The court deferred ruling on the plaintiff's motion for a preliminary injunction (Dkt. No. 4) pending payment of the filing fee. Id. at 8.

The May 3, 2024 deadline has passed, and the court has not received the \$405 filing fee. The court will enforce its previous order and dismiss the complaint without prejudice. The court will deny the plaintiff's motion for a preliminary injunction as moot.

The court **DENIES AS MOOT** the plaintiff's motion for a preliminary injunction. Dkt. No. 4.

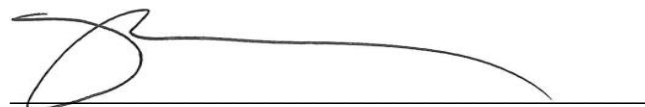
The court **ORDERS** that the plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE** for failure to pay the filing fee and failure to comply with the court's order. The clerk will enter judgment accordingly.

The court **ORDERS** that under 28 U.S.C. §1915(b)(1), the plaintiff is required to pay the full \$405 filing fee. The agency that has custody of the plaintiff shall collect from his institution trust account the **\$405** filing fee by collecting monthly payments from the plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to the plaintiff's trust account and forwarding payments to the clerk of court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. §1915(b)(2). The agency shall clearly identify the payments by the case name and number. If the plaintiff transfers to another county, state or federal institution, the transferring institution shall forward a copy of this order, along with the plaintiff's remaining balance, to the receiving institution.

The court will send a copy of this order to the Warden at Waupun Correctional Institution where the plaintiff is incarcerated.

Dated at Milwaukee, Wisconsin this 10th day of May, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge